

# THE PART 15 COALITION

April 15, 2013

By Electronic Filing

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: In the Matter of Progeny LMS, LLC, Petition for Waiver of  
the Rules and Request for Expedited Treatment  
Ex Parte Notice, WT Docket No. 11-49**

Dear Ms. Dortch:

On April 11, 2013, the undersigned and certain members of the Part 15 Coalition (identified on the attached attendee list) (hereinafter, the "Part 15 Parties"), met with Chairman Julius Genachowski, Chief of Staff Zachary Katz, Legal Advisor Renee Gregory, Wireless Bureau Chief Ruth Milkman, and Office of Engineering and Technology Chief Julius Knapp.

The meeting addressed numerous concerns of the Part 15 Coalition regarding the Federal Communications Commission's ("FCC" or "Commission") consideration of Progeny's satisfaction of its license condition, which requires it to demonstrate that it does not cause unacceptable levels of interference to unlicensed devices operating in the 902-928 MHz band.

First, the Part 15 Parties noted that the 902-928 MHz unlicensed band provides enormous societal and economic benefits fully justifying the FCC's confidence almost 20 years ago in providing it protection from unacceptable interference. If anything, the band is more important today than when it was first extended protection by the Commission. The attached industry letter, signed by sixty companies and sent to the Chairman in January, indicates the wide variety of companies, products and technologies that would be implicated by the Commission's decision in the matter.

The Part 15 Parties then presented specific industry concerns:

- Inovonics - Alarm and Duress: Critical life and safety devices are used by local, state and federal governments, as well as for school and movie

theater security, safety and security at hotels, hospitals, etc. These systems must work when they are most needed. At the very least, additional testing must be conducted. Although, Inovonics contacted Progeny to request such testing, it has received no response.

- **PepcoHoldings, Inc./PEPCO and General Electric - Critical Infrastructure:** For more than 20 years, electric utilities across the nation have utilized the 902-928 MHz band to support cost effective and reliable remote connectivity. Today, this band is widely used for a range of advanced applications, including: Substation Supervisory Control and Data Acquisition (SCADA); Distribution Automation (DA); and Advanced Metering Infrastructure. Many of these investments have been financed by ratepayers; more recently, the Federal Government has invested billions in such applications to support the Administration's grid modernization policies. All of these investments will be put at risk by an erroneous Commission decision in this matter. Similar applications are utilized across other critical infrastructure sectors and perform a range of public safety and other essential services, including: Remote monitoring and controlling of pipes, valves and pumps (water); remote locomotive control and dispatch (transportation); and remote wellhead and pipeline monitoring (oil and gas). General Electric engineers have evaluated Progeny's system design and the joint test results in the record, and are highly concerned about Progeny's potential impact to the safe and secure operation of the electric grid and other critical infrastructure assets.
- **WISPA - Wireless Broadband:** There are many "underserved" communities in urban areas, where the 900 MHz band may be the only feasible means to deliver fixed broadband services. Joint testing between Progeny and WISPA has conclusively shown that Progeny will reduce throughput of broadband services by 50 percent and will effectively preclude WISP operations where it is fully built out. As well, WISPA members are concerned that authorizing Progeny would establish a precedent that could potentially jeopardize operations in other unlicensed bands.
- **E-ZPass - Electronic Toll Collections:** There are more than 40 million devices deployed across thirty states which collect tens of billions of dollars of revenue. Map21 legislation passed last year requires national interoperability of these systems by 2016, and the 902-928 MHz band is the only spectrum where this can be done. Interference from Progeny will have a great impact on public safety, traffic congestion, and revenues. While licensed, these toll collection systems operate like Part 15 systems

and thus will suffer the same adverse consequences as unlicensed users would suffer if Progeny were allowed to operate. Additional testing is necessary.

- Plantronics - Wireless Headsets and Telephony: Lightweight, mobile headsets are used in high-density environments, such as calling centers, 911 call centers and trading floors. These uses are particularly susceptible to Progeny's signal because voice transmissions have no latency. Progeny's high-power burst mode will make products inoperable, which will impact not only business activity but also public safety uses. Testing to date has not allowed for a real assessment of risk. Plantronics reported that its devices are currently experiencing interference from Progeny's devices in the San Jose area.

The Part 15 Parties summarized these business and sector specifics by stating that the record of this proceeding raises serious questions of substantial risk of interference to unlicensed devices and systems. They noted that Progeny would operate at significantly higher power without any restrictions on duty cycle or the location, height or density of Progeny's transmitters. Under the Commission's standards, Progeny has the burden of demonstrating that it will not cause unacceptable levels of interference. It has not met that burden.

With regard to additional testing, the Part 15 Parties noted that the Order granting Progeny's waiver states that: "If [] significant interference concerns are raised, [FCC] will determine what additional steps may be appropriate." Now is the time to consider those additional steps. At the very least, the Commission must require and monitor additional testing of Progeny's system with a wide variety of Part 15 devices – even the various industry perspectives presented at the meeting reflect just a small portion of the industries and users of the band that will be affected by Progeny. Based on test results, the FCC should determine, as intended when it established the M-LMS service, what modifications to Progeny's system design would be necessary to make it compatible with unlicensed technologies and services. In this regard, there have been suggestions offered by some Part 15 Coalition members, to which Progeny has not responded.

The Part 15 Parties also addressed the recent letters submitted in this proceeding by some public safety entities, which Progeny has suggested that the Commission consider as support for Progeny *vis a vis* the public safety community. The Part 15 Parties stated that these letters cannot be considered as support for Progeny's claim that it has met its burden of demonstrating that its operations do not cause unacceptable levels of interference to Part 15 devices.

The Part 15 Parties added that, according to recent testing by CSRIC, at present the Progeny location technology does not yet meet public safety's needs and, in any event, it is not the only such technology under consideration. Therefore, there is no public safety need to rush to grant Progeny authority to operate. Given what's at stake for unlicensed services, prudence rather than haste is warranted.

Finally, the Part 15 Parties noted that the fundamental task of the Commission in this proceeding is to determine the adverse impact of a licensed service on an unlicensed service that, uniquely, has interference protection. It is only prior to the roll-out of Progeny's licensed service that the Commission will have the opportunity to determine whether Progeny's operations cause unacceptable interference to a wide variety of unlicensed technologies and services. Therefore, prudence requires that the full Commission make this unprecedented and critically important decision.

The attached list of Part 15 Coalition members and the attached presentations were provided.

Please direct any questions to the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Henry Goldberg". The signature is written in a cursive style with a large, prominent "H" and "G".

Henry Goldberg  
*Counsel for the Part 15 Coalition*

#### Attachments

cc: Chairman Genachowski  
Zachary Katz  
Renee Gregory  
Erin McGrath  
Louis Peraertz  
David Goldman  
Julie Knapp  
Karen Ansari  
Geraldine Matisse  
Hugh Van Tuyl  
Ruth Milkman  
John Leibovitz  
Roger Noel  
Paul Murray  
Paul D'Ari  
David Furth